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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,088	12/16/2003	Thomas L. Kelly	KES-0003	5181
23413	7590	03/14/2006	EXAMINER	
CANTOR COLBURN, LLP			A, PHI DIEU TRAN	
55 GRIFFIN ROAD SOUTH			ART UNIT	
BLOOMFIELD, CT 06002			PAPER NUMBER	
			3637	

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/737,088	Applicant(s) KELLY, THOMAS L.	
	Examiner Phi D. A	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 6, 9-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Kelly (6006482).

Kelly (figure 11) shows a roof system comprising a roof deck (12), an insulation layer (the layer below layer 14) supported by the roof deck, an energy absorbing layer (14) supported by the insulation layer, a waterproof membrane (9) loose laid over the energy absorbing layer, the energy absorbing layer being gypsum board, the joints in the insulation layer being offset from joints in the energy absorbing layer (figure 20 shows the layers having spaced joints, and thus figure 11 should have the same kind of spaced joints), the deck is air sealed, the membrane is air sealed to a wall structure (26), the membrane is installed with at least one intentional wrinkle (figure 25-26), the at least one wrinkle is located at a perimeter edge of the deck (figure 11, where part 9 curves over the edge), the at least one wrinkle is located within a field of the membrane (figures 25-26), the at least one wrinkle is located at protrusions (figure 25-26) of the roof membrane, the at least one wrinkle is located at both a field of the membrane and perimeter edge of the roof deck, the at least one wrinkle is adhered to an underlying layer (88) of the system with an adherent (16) composed to yield to shear force thereon, a wind blown debris resistant roof system comprising a roof deck (12, figure 31), a layer of stiff material (the layer above deck 12) attached to the roof deck, a primary waterproofing membrane (9) supported by

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the stiff material, a roof insulation (14, the layer above layer 110) and energy absorbing layer (14, the layer below layer 9) loose laid over the primary water proofing membrane, a secondary waterproofing membrane (112) disposed over the energy absorbing layer, a preexisting roof assembly that is air sealed underlying at least the energy absorbing layer.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (6006482).

Kelly shows all the claimed limitations except for the gypsum board being ½ inch thick.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kelly's board to show the board being ½ inch thick because it would provide for good supporting strength and insulation for the roof.

5. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (6006482) in view of Nurley et al (6250036)

Kelly shows all the claimed limitations except for the membrane being fiberglass reinforced, the membrane being about 80 mil fiberglass reinforced or thicker.

Nurley et al (col 6 lines 28-45) discloses felt heavily reinforced with fiberglass would provide the properties of silencing sound, cushioning effect and deform slightly when forces are applied generally perpendicular to upper and lower surface of the material.

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It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kelly's board to show the membrane being fiberglass reinforced, the membrane being about 80 mil fiberglass reinforced or thicker because having the felt being fiber glass reinforced would provide the properties of silencing sound, cushioning effect and deform slightly when forces are applied generally perpendicular to the surface of the material as taught by Nurley et al, and these properties are desired for a roofing membrane, and having the membrane being 80 mil fiberglass reinforced or thicker would have been obvious to one having ordinary skill in the art as it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art, In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

6. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (6006482) in view of Bennett.

Kelly shows all the claimed limitations except for the insulation layer is of a resilient material

Bennett shows the insulation layer is of a resilient material (polystyrene polymer foam, inherently resilient).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Bennett's board to show the insulation layer is of a resilient material as taught by Bennett because resilient foam would provide good insulation for the roof structure as taught Bennett.

Per claim 8, Kelly as modified shows all the claimed limitations except for the resilient material being about 1.5 inch thick or more.

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It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kelly's board to show the resilient material being about 1.5 inch thick or more because it would provide for good insulation for the roof.

Response to Arguments

7. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

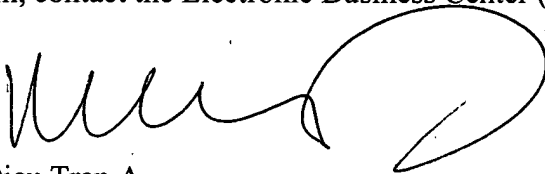
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different roofing system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above the name Phi Dieu Tran A.

Phi Dieu Tran A

3/6/06